

**REMARKS**

In the December 18, 2003 Office Action, the Examiner rejected claims 1-15 pending in the application. Accordingly, Applicant has amended the claims to address various informalities and provides the following remarks with respect to the §§ 101 and 112 rejections set forth in the Office Action. Applicant also respectfully submits that the currently presented claims sufficiently address the § 102(e) rejections along with the accompanied remarks.

This Response amends claims 1-15 to address various statutory subject matter rejections raised by the Examiner, and introduces new claims 16-20. After entry of the foregoing amendments, claims 1-20 (4 independent claims; 20 total claims) remain pending in the application. In view of the foregoing remarks, reconsideration of the application is respectfully requested. No new subject matter is being added by this Amendment. Applicant respectfully requests allowance of the pending claims.

### **Claim Rejections**

The Examiner has rejected claims 1-15 under 35 U.S.C. § 101 stating that the claims are simply directed to nonstatutory subject matter, relying upon the assertion that "[T]aking several abstract ideas and manipulating them together adds nothing to the basic equation." *In re Warmerdam*, 33 F.3d 1354, 1360 (Fed. Cir. 1994), as further supported by the Federal Circuit *in re AT&T Corporation v Excel Communications, Inc.*, 50 USPQU 2d 1447 (Fed. Cir. 1997). Applicant respectfully traverses these rejections.

Applicant respectfully submits that the Examiner's application of *Warmerdam* as further clarified in *AT&T* do not render the presently pending claims as nonstatutory subject matter. In *Warmerdam*, the applicant had claimed three separate forms of an invention directed to 1) a method of generating a data structure, 2) a machine with memory contained in a data structure, and 3) the data structure itself. The Federal Circuit held that the claim directed to a machine with a memory contained in the data structure was sufficient statutory subject matter (stating that the claim was "for a machine, and is clearly patentable subject matter") (*Warmerdam*, 31 USPQU 2d 1759). Accordingly, patent protection was afforded to a memory storing a data structure, but not to the data structure itself. However, two weeks later the Federal Circuit confirmed that a data structure stored in a memory was also statutory subject matter and held the data structure patentable over the prior art (*In re Lowry*, 32 F.3d 1579, 32 USPQU 2d 1031 (Fed. Cir. 1994)).

These cases and others like them were further interpreted by the *AT&T v Excel* decision. In *AT&T* the Court concluded that "[I]t is now clear that computer-based programming constitutes patentable subject matter so long as the basic requirements of § 101 are met . . . [T]he focus is understood to be not on whether there is a mathematical algorithm at work, but on

whether the algorithm-containing invention, as a whole produces a tangible, useful result. "AT&T 50 USPQU 2d 1454. Accordingly, the *AT&T* decision illustrates that the only inquiry that one needs to make is whether the computer-based programming produces a tangible and useful result."

In this instance, the present pending claims do not constitute a mere mathematic algorithm, contrary to the Examiner's assessment, the presently pending claims do provide specific results that define a useful, concrete and tangible result, namely, a method and system for resolving ergonomic injuries in the workplace. As a result, Applicant respectfully submits that Applicant's claims have not simply taken an abstract idea and manipulated them to add nothing to the basic equation, but instead provides proactive ergonomic resolution to injuries in the workplace.

As long recognized under the patent laws, "A specification which contains a disclosure of utility which corresponds in scope to the subject matter sought to patented must be taken as sufficient to satisfy the utility requirement of § 101 for the entire claimed subject matter unless there is reason for one skilled in the art to question the objective truth of the statement of utility or its scope." *In re Langer* 503 F.2d 1380, 183 USPQU 288 (CCPA 1974). In other words, unless the Examiner can provide evidence with respect to the claimed subject matter that questions the objective truth of that subject matter, the statement of utility and the scope as found in the application demonstrate utility. Applicant respectfully submits this is the case.

Claims 1-15 also stand rejected under 35 U.S.C. § 112 as a result of the § 101 rejection above. However, Applicant respectfully submits that since the § 101 rejections have been overcome as the claimed subject matter is useful and provides concrete and tangible results, the § 112 rejections are now moot.

Finally, the Examiner has rejected claims 1-15 under 35 U.S.C. 102(e) as being anticipated by Blasko et al., U.S. Patent No. 6,466,928 that issued on October 15, 2002 ("Blasko").

In general, Blasko discloses an apparatus and related methods for evaluating a business proposal in which a computer is used to perform the steps of presenting questions regarding the business proposal using information gathered from responses to those questions to determine a score for the proposal and providing this information score for evaluation of the proposal. In contrast to Blasko, Applicant's amended independent claim 1 recites an ergonomic solution system for facilitating reduction of ergonomic injuries in a workplace, said system comprising a computerized issue component for identifying ergonomic risk to be resolved, a computerized inquiry component for facilitating collection of workplace information relevant to said computerized issue component to facilitate definition of said computerized issue component, a knowledge database comprising ergonomic data and information for facilitating assessment of said workplace information, a solution database for compiling ergonomic assessments and recommendations from said knowledge database and for reporting said assessments and said recommendations to the workplace, and a communications network for communicating said workplace information to said knowledge database and for communicating said ergonomic assessments and recommendations to the workplace for implementation.

Blasko does not disclose or suggest each and every element of Applicant's amended independent claim 1. Blasko does not disclosure or suggest an ergonomic solution system for facilitating reduction of ergonomic injuries in the workplace. In addition, Blasko does not disclosure or suggest a computerized issue component for identifying ergonomic risk issues to be resolved, or the collection of workplace information relevant to the computerized issue

component, or a database comprising ergonomic data and information for facilitating assessment, and a solution database for compiling assessments and recommendations. Accordingly, independent claim 1 is patentable over the cited prior art.

In addition, claim 2 is also independently patentable over Blasko. For example, claim 2 further comprises an artificial intelligence engine configured for "breaking down said current ergonomic issue into smaller ergonomic components for further comparison if said existing ergonomic issue is not similar to said current ergonomic issue to thus provide a suggestion associated with said smaller ergonomic components."

Likewise, Applicant's independent claim 3 recites an automated method for reducing ergonomic injuries in the workplace, said automated method comprising the computer-implemented steps of identifying an ergonomic issue occurring at a client workplace, said ergonomic issue being provided by a client through a computerized client interface, collecting client information from the client through the computerized client interface, said information relevant to said ergonomic issue and configured to further define said ergonomic issue, assessing said client information with a computerized artificial intelligence engine by comparison of said client information to previous client information from previous ergonomic issues stored within a knowledge database, selecting recommendations stored within a solution database for resolving said ergonomic issue, said recommendations based on previous ergonomic issues having similarity to said client information, and providing said recommendations through a communications network to the client through said client interface.

For similar reasons, Blasko does not disclose each and every element of Applicant's amended independent claim 3. Moreover, Blasko fails to teach and suggest each and every element of claims 4-7 which variously depend from independent claim 3.

Applicant's amended independent claim 8 recites an automated method for providing recommendations to engineering and business cases, said method comprising the computer-implemented steps of collecting data through a client interface relating to at least one case of a client, determining through a computerized artificial intelligence engine whether an existing case in a knowledge database is substantially similar to said at least one case, and providing a solution corresponding to at least one existing case if said case in said database is substantially similar to said at least one case, breaking down said at least one case into multiple problems if at least one said existing case in said knowledge database is not substantially similar to said at least one case of the client, and assessing through said computerized artificial intelligence engine at least one of said multiple problems to determine whether an existing problem within said knowledge database is substantially similar to said at least one of said multiple problems, and providing a recommendation corresponding to said existing problem if said existing problem in said knowledge database is substantially similar to said at least one of said multiple problems.

Again, Blasko does not disclose each and every element of independent claim 8, let alone each and every element of claims 9-15, each of which variously depend on independent claim 8.

Applicant's independent claim 16 recites an ergonomic assessment system for facilitating automated assessment and solutions for reducing ergonomic issues, said ergonomic assessment system comprising a documented issue statement completed by a client through a computerized client interface, said documented issue statement configured for identifying problems to be resolved, an inquiry component for facilitating collection of client information provided by the client through said client interface, said client information utilized with said documented issue statement to facilitate further definition of said documented issue statement, a knowledge database comprising data and information relating to previous issues provided by clients, said

knowledge database configured for facilitating assessment of said client information by comparison to said previous issues provided by clients, a solution database comprising previous recommendations associated with said previous issues, said solution configured for compiling assessments from said knowledge base and for providing a new recommendation based on comparison conducted by said knowledge database, and an electronic communications network for communicating said client information from said inquiry component to said knowledge database, and for communicating said new recommendation from said solution database to the client through said client interface. Again, for reasons discussed above, Blasko does not disclose each and every element of new independent claim 16, let alone each and every element of independent 17-20.

**CONCLUSION**

In view of the foregoing, Applicant respectfully submits that all the pending claims fully comply with 35 U.S.C. § 112 and are allowable over the prior art of record. Reconsideration of the application and allowance of all pending claims is earnestly solicited. Should the Examiner wish to discuss any of the above in greater detail or deem that further amendments should be made to improve the form of the claims, then the Examiner is invited to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

Date:

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